

ESTTA Tracking number: **ESTTA826778**

Filing date: **06/13/2017**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Petition for Cancellation

Notice is hereby given that the following party requests to cancel indicated registration.

Petitioner Information

Name	CWF Flooring, Inc.		
Entity	Corporation	Citizenship	CA
Address	38325 6th Street East PALMDALE, CA 93550 UNITED STATES		

Correspondence information	James Maksimuk CWF Flooring, Inc. 38325 6th Street East PALMDALE, CA 93550 UNITED STATES sales@cartwheelfactory.com Phone:3234206794
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Registration Subject to Cancellation

Registration No	2479328	Registration date	08/21/2001
Registrant	CONNOR SPORT COURT INTERNATIONAL, LLC 5445 W. Harold Gatty Drive Salt Lake City, UT 84116 UNITED STATES		

Goods/Services Subject to Cancellation

Class 019. First Use: 1974/12/31 First Use In Commerce: 1974/12/31 All goods and services in the class are cancelled, namely: plastic interlocking floor tiles

Grounds for Cancellation

Abandonment	Trademark Act Section 14(3)
The mark is or has become generic	Trademark Act Section 14(3), or Section 23 if on Supplemental Register

Attachments	cancel-reg.pdf(347540 bytes)
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Signature	/james maksimuk/
Name	james maksimuk
Date	06/13/2017

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE BEFORE THE
TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of trademark application Registration Nos (Reg. Nos.
#2,479,328) (Exhibit A) for the trademark "Sport Court."

PETITION TO CANCEL REGISTRATION

The PETITIONER is James J. Maksimuk, of 38325 6th Street East, Palmdale, CA 93550. The PETITIONER sells plastic interlocking sport court tiles for basketball courts and other sport courts such as volleyball, tennis hockey etc. from its websites: www.SportTiles.pro and www.PlasticSportCourtTiles.com

The APPLICANT is Connor Sport Court International, LLC of 939 South 700 West, Salt Lake City, Utah 84104 represented by Atty. Peter deJonge of Thorpe North & Western, The Walker Center, 175 S. Main Street, Suite 900, Salt Lake City, Utah 84111. The applicant owns the trademark 'sport court.' Connor Sport Court International sells the same or similar products.

The above-identified OPPOSER believes that it he will be damaged by the registration of the trademark mentioned in the above-identified application, and hereby opposes the same.

The PETITIONER requests that the USPTO Trademark Trial and Appeal Board (TTAB) invalidate/cancel and remove from the REGISTRY trademark registrations Serial Number 75879564, Reg. Number 2479328 on the following grounds as follows:

1. That the subject trademark 'sport court' is a generic phrase and a descriptive term., [Delaware & Hudson Canal Col. v. Clark, 80, 80 U.S. \(13 Wall.\) 311, 323, 20 L. Ed. 581 \(1872\)](#) ("Nor can a generic name, or a name merely descriptive of an article or its qualities, ingredients, or characteristics, be employed as a trademark and the exclusive use of it be entitled to legal protection")

Defendant-Appellee states “any claim to a trade mark must be invalidated if it would confer a monopoly by rendering a competitor unable effectively to name what it was endeavoring to sell.”

If, Hypothetically, The APPLICANT trademark stays, this would not only cause harm to the PETITIONER but would definitely cause harm to all other companies who sell, sport court tiles, sport tiles, games courts, plastic sport court tiles, interlocking sport court tiles, basketball court tiles, volleyball court tiles, sport court surfaces and flooring, etc. The TTAB’s validation of the trademark ‘sport court’ would solidify and actually sponsor a monopoly on these products by the APPLICANT. For this is the objective of ‘Connor Sport Court International’ to monopolize the industry of sport court flooring.

Any stay on the APPLICANT’s trademark would give unfair advantage to Connor Sport Court International.

Marks that are “merely descriptive” of the goods or services may not be registered on the Principal Register absent a showing of acquired distinctiveness under [5 U.S.C. §1052\(f\)](#).

See [TMEP §1209.01\(b\)](#) regarding merely descriptive marks, and [TMEP §§1212–1212.10](#) regarding acquired distinctiveness.

A descriptive term conveys an immediate idea of the ingredients, qualities or characteristic of the good.” [Stix Product, Inc. v. United Merchants and Manufactures, Inc.](#) 295 F. Supp. 479, 488 (S.D. N.Y. 1968).

[Weiss Noodle Co. v. Golden Cracknel & Specialty Co](#) states “[t]he name of a thing is in fact the ultimate in descriptiveness.” A validation/admission of the descriptiveness of the ‘sport court’ is in itself in the name ‘Connor Sport Court International’ is purely descriptive, [327 F. Supp. At 664](#) In analysis of the business name ‘Connor Sport Court International;’ ‘Conner’ is the name, ‘international’ is the status and ‘sport court’ is the product.

‘Sport’ is defined as “a contest or game in which people do certain physical activities according

to a specific set of rules and compete against each other “ whereas ‘court’ is defined as ‘a quadrangular space walled or marked off for playing one of various games with a ball...” To validate the trademark of these two nouns, sport + court, in the English language is to give ownership to commonly used words.

If we Wikipedia ‘sport court’ the phrase ‘game court’ appears. “Game Court is one of the names for a multi-sport athletic space, typically constructed outdoors, where such games as basketball, volleyball, paddle tennis and other racquet sports, and up to a dozen more games and activities can be played. They are usually smaller than a regulation tennis (120' x 60') or basketball (84'x50') court, although there is no set dimensions or size for a game court. The game-court concept was popularized by Sport Court in the 1970s, and some generic references are made to game courts as 'sport courts', although that is a trademark of Connor Sport Court International, LLC.” Reference:

https://en.wikipedia.org/wiki/Game_court Underlined emphasis is ours.

[The Lanham Act, § 14 \(15 U.S.C. § 1064\)](#) Cancellation of registration, Amendment, Par. (3) provides for the cancellation of a registered mark if at any time “... the registered mark becomes the generic name for less than all of the goods or services for which it is registered, a petition to cancel the registration for only those goods or services may be filed. A registered mark shall not be deemed to be the generic name of goods or services solely because such mark is also used as a name of or to identify a unique product or service. The primary significance of the registered mark to the relevant public rather than purchaser motivation shall be the test for determining whether the registered mark has become the generic name of goods or services on or in connection with which it has been used. ”

2. That the subject trademark ‘sport court’ is in opposition to [1209.01 1209.01 Distinctiveness/Descriptiveness Continuum](#) “Marks that are merely descriptive of the goods or services may not be registered on the Principal Register absent a showing of acquired distinctiveness under 15 U.S.C. §1052(f). See [TMEP §1209.01\(b\)](#) regarding merely descriptive marks, and [TMEP §§1212–1212.10](#) regarding acquired distinctiveness. Merely descriptive marks may be registrable on the Supplemental Register in applications under §1 or §44 of the Trademark Act. [15 U.S.C. §1091](#). Matter that is generic

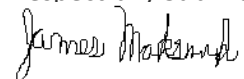
for the goods or services is not registrable on either the Principal or the Supplemental Register under any circumstances. See TMEP [§§1209.01\(c\)-\(c\)\(iii\)](#).” of acquired distinctiveness under “
[15 U.S.C. §1052\(f\)](#).”

Clearly, the word ‘sport court’ is generic without distinctiveness. Applicant failed to add a ‘phrase identifier’ to give there trade mark distinction/the applicant failed to apply distinctiveness to its interlocking sport court tile business. If hypothetically, the Applicant adds the word “Conner” to the trademark ‘sport court’ to make “Conner Sport Court’ then this added ‘phrase identifier’ may eliminate the genericness and add distinction and may give trademark protection to the phrase “Conner Sport Court.”

Furthermore, “If the registered mark becomes the generic name for less than all of the goods or services for which it is registered, a petition to cancel the registration for only those goods or services may be filed. A registered mark shall not be deemed to be the generic name of goods or services solely because such mark is also used as a name of or to identify a unique product or service. The primary significance of the registered mark to the relevant public rather than purchaser motivation shall be the test for determining whether the registered mark has become the generic name of goods or services on or in connection with which it has been used.” [15 U.S.C. § 1064 \[Trademark Act § 14\]](#)

For the foregoing reasons, the PETITIONER respectfully requests the USPTO-Trademark Trial and Appeal Board cancel / invalidate and permanently remove the trademark ‘sport court’ from the REGISTRY for the above mentioned reasons.

Respectfully Submitted On June 13, 2017



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United States Patent and Trademark Office

SPORT COURT

Reg. No. 2,479,328 CONNOR SPORT COURT INTERNATIONAL, LLC (DELAWARE LIMITED LIABILITY COMPANY)
Registered Aug. 21, 2001 939 SOUTH 700 WEST
New Cert. Apr. 10, 2012 SALT LAKE CITY, UT 84104
Int. Cl.: 19 FOR: PLASTIC INTERLOCKING FLOOR TILES, IN CLASS 19 (U.S. CLS. 1, 12, 33 AND 50).
FIRST USE 12-31-1974; IN COMMERCE 12-31-1974.

TRADEMARK OWNER OF U.S. REG. NOS. 1,100,976, 1,727,818 AND OTHERS.

PRINCIPAL REGISTER SEC. 2(F).
SER. NO. 75-879,564, FILED 12-23-1999.



David J. Kappas

Director of the United States Patent and Trademark Office